

AUG 09 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Mattheakis et al.

Attorney Docket No.: CYTOP135

Application No.: 10/623,486

Examiner: LILLING, HERBERT J

Filed: July 18, 2003

Group: 1651

Title: PREDICTING HEPATOTOXICITY USING  
CELL BASED ASSAYS

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Attention LILLING, HERBERT J at facsimile telephone number (571) 280-8300 on August 9, 2006.

Signed: 

Leslie Russell

**TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321  
TO OBVIATE A PROVISIONAL OBVIOUSNESS-TYPE  
DOUBLE PATENTING REJECTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The owner(s), Cytokinetics, Inc. of the entire interest in the above-identified application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156, and § 173 of any patent granted on Second Application No. 10/719,988, filed on November 20, 2003, as shortened by any terminal disclaimer filed prior to its grant. The owner(s) hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that it and any patent granted on the Second Application are commonly owned. This agreement runs with any patent granted on the above-identified application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner(s) does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and § 173 of any patent granted on the Second Application, as shortened by any terminal disclaimer filed prior to its grant, in the event that any such granted patent later: expires for failure to pay a maintenance fee, is held

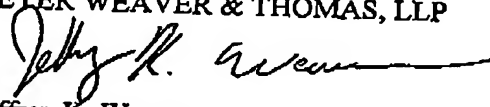
unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims canceled by a reexamination certificate, is reissued or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an agent or attorney of record.

Please charge the amount of \$130.00 to cover the disclaimer fee and/or additional fees required to facilitate filing of this Terminal Disclaimer or credit any overpayment to Deposit Account No. 500388 (Order No. CYTOP135).

Respectfully submitted,

BEYER WEAVER & THOMAS, LLP

  
Jeffrey K. Weaver  
Registration No. 31,314

P.O. Box 70250  
Oakland, CA 94612-0250  
(510) 663-1100